



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ALVIN MARTINEZ,

Plaintiff,

-against-

UNITED STATES,

Defendant.
-----X

Civil Judgment

08 Civ. 5104 (KMW)

SCANNED

By order dated June 4, 2008, plaintiff was directed to file an amended 28 U.S.C. § 2255 motion with this Court within sixty (60) days. Plaintiff has failed to file an amended motion as specified. As plaintiff has failed to comply with the Court's order or otherwise communicate with the Court it is,

ORDERED, ADJUDGED AND DECREED: That the motion is dismissed. 28 U.S.C. § 1915(e)(2)(B)(ii). Since the instant application presents no substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253; Lozada v. United States, 107 F.3d 1011, 1016-17 (2d Cir. 1997), abrogated on other grounds by United States v. Perez, 129 F.3d 255, 259-60 (2d Cir. 1997). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith. See Coppedge

v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Kimba M. Wood

KIMBA M. WOOD
Chief Judge

Dated: **AUG 25 2008**
New York, New York

THIS DOCUMENT WAS ENTERED ON THE DOCKET ON _____.